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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN WILLIAM CARBONE, JOHN YUPENG GUI,
BERNHARD JOSEPH SCHOLZ, MEENA GANESH,
and SEAN DOUGLAS CARNEY

Appeal 2009-009111
Application 10/064,665
Technology Center 3600

Before: MURRIEL E. CRAWFORD, ANTON W. FETTING, and
JOSEPH A. FISCHETTI, *Administrative Patent Judges.*

CRAWFORD, *Administrative Patent Judge.*

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

This is an appeal from the final rejection of claims 1-50. We have jurisdiction to review the case under 35 U.S.C. §§ 134 and 6 (2002).

The claimed invention is directed to systems and methods for which utilize various computer technologies to create and maintain an up-to-date record of asset status and location information which may then be shared among various personnel (Spec., para. [0001]). Claim 1, reproduced below, is further illustrative of the claimed subject matter.

1. A system for enabling enhanced asset management and tracking capabilities, comprising:
 - a plurality of electronic asset identification devices, wherein each of the plurality of electronic asset identification devices is affixed to an asset whose location and information are to be managed, wherein each of the plurality of asset identification devices includes at least unique identification information relating to the asset to which it is affixed;
 - an asset management server computer system for maintaining at least one database containing information regarding the asset identification devices and the assets to which they are affixed;
 - a remote client computer system operatively connected to the asset management server computer system for exchanging information over a computer network; and
 - at least one interrogation device operatively connected to the remote client computer system,
 - wherein the at least one interrogation device is separate from the remote client computer system and receives information from the plurality of asset identification devices and exchanges said information with the remote client computer system.

The references of record relied upon by the Examiner as evidence of obviousness are:

Cannon	US 5,689,238	Nov. 18, 1997
Radican	US 6,148,291	Nov. 14, 2000
Maltseff	US 2002/0097282 A1	Jul. 25, 2002
Marsh	US 2003/0023517 A1	Jan. 30, 2003
Fleskes	US 6,529,910 B1	Mar. 4, 2003
Botham	US 2003/0101108 A1	May 29, 2003
Ahlberg	US 6,587,836 B1	Jul. 1, 2003

Claims 1-6, 16-17, 20, 24, 26-31, 41-42, 45, and 49 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Marsh in view of Maltseff; claims 7, 15, 32, and 40 rejected under 35 U.S.C. § 103(a) as unpatentable over Marsh in view of Maltseff and Official Notice; claims 8 and 33 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Marsh in view of Maltseff and Bothman; claims 9-10, 14, 34-35, and 39 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Marsh in view of Maltseff, Bothman, and Ahlberg; claims 11-13 and 36-38 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Marsh in view of Maltseff, Bothman, Ahlberg, and Fleskes; claims 18-19 and 43-44 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Marsh in view of Maltseff and Ahlberg; claims 21, 23, 46, and 48 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Marsh in view of Maltseff and Cannon; claims 22 and 47 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Marsh in view of Maltseff; and claims 25 and 50 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Marsh in view of Maltseff and Radican.

We AFFIRM.

ISSUES

Did the Examiner err in asserting that a combination of Marsh and Maltseff renders obvious the subject matter of independent claims 1 and 26 and dependent claims 3-5?

Did the Examiner err in asserting that a combination of Marsh, Maltseff, and Official Notice renders obvious the subject matter of dependent claims 7, 15, 32, and 40?

Did the Examiner err in asserting that a combination of Marsh, Maltseff, Bothman, Ahlberg, Fleskes, Cannon, and Radican renders obvious the subject matter of dependent claims 2-6, 8-14, 16-25, 27-31, 33-39, and 41-50?

FINDINGS OF FACT

Marsh

Figure 1 of Marsh illustrates a block diagram of a distributed database system 100, according to aspects of an embodiment of the invention. The distributed database system 100 includes a field control device 110 and data tag 120. In one embodiment of the invention, the distributed database system 100 further comprises a data server 130. The data tag 120 is maintained in proximity of a tracked entity 140. In one embodiment of the invention, the data tag 120 is attached to the tracked entity 140 (para. [0020]).

The field control device 110 comprises any device capable of operating a computer program and communicating data with other devices. In one embodiment of the invention, the field control device 110 comprises a computing device advantageously connected to a transmission device. For

example, the computing device may comprise a hand-held computing device such as a personal digital assistant (PDA). The computing device is operationally connected to an antenna (not shown). The antenna comprises any device capable of transmitting and receiving data, such as, for example, a radio frequency (RF) antenna. In one embodiment of the invention, the computing device and the antenna are contained in one device (e.g., a PDA) capable of both executing a computer program and also communicating with other devices (para. [0021]).

The data tag 120 comprises any device capable of storing digital data. In one embodiment of the invention, the data tag 120 comprises a radio-frequency identification (RFID) tag. The data server 130 comprises any device capable of executing computer programs. In one embodiment of the invention, the data server 130 comprises a personal computing device. In another embodiment of the invention, the data server 130 comprises a computer server capable of executing computer programs that collectively serve the needs of one or more computing devices (para. [0022]).

Maltseff

Maltseff discloses that system 26 includes a wireless interrogator 28 for interrogating a wireless memory device such as an RFID tag 30. The RFID tag 30 may be an active device containing its own power source, or may be a passive device, relying on the RF interrogation beam 32 for power. The RFID tag 30 stores a unique identifier and may store additional tax related information. The RFID tag 30 may require a read access code to

permit a user to read data stored in the RFID tag 30, and may require a write access code to allow a user to write to or reprogram the data in the RFID tag 30 (para. [0030]).

A radio frequency transceiver 34 provides an interface between the wireless interrogator 28 and the personal computer 20. The communications link 16 provides communications between the personal computer 20, the central computer 24, and the central tax information database 18. The personal computer 20 couples an intermediate tax information database 36 to the system 26 to provide temporary storage for tax information. Thus, tax information collected by the interrogator 28 may be downloaded to the intermediate database 36 for periodic uploading from the intermediate database 36 to the central tax information database 18. Similarly, information collected from a number of sources such as a number of wireless interrogators 28 may be accumulated in the central tax information database 18 and periodically downloaded to the intermediate database 36 (para. [0031]).

ANALYSIS

Interrogation Device Separate from Remote Client Computer System

We are not persuaded that the Examiner erred in asserting that a combination of Marsh and Maltseff renders obvious the subject matter of independent claims 1 and 26 and dependent claims 3-5 (App. Br. 6-10; Reply Br. 2-5). Appellants assert that neither field control device 110 of Marsh nor personal computer 20 of Maltseff correspond to the remote client computer recited in independent claims 1 and 26 (App. Br. 7). However, all that is required of the recited remote client computer is that it be capable of

exchanging information with an asset management server computer system and an interrogation device. Both the field control device 110 of Marsh (para. [0021]) and the personal computer 20 of Maltseff (para. [0031]) have those capabilities.

Appellants assert that the Examiner has not provided a rationale for modifying Marsh in view of Maltseff by splitting the field control device 110 into wireless interrogator 28 and personal computer 20 (App. Br. 7-8, 9-10). However, the Examiner has provided such a rationale on pages 22-23 of the Examiner's Answer. Namely,

the examiner notes that one of ordinary skill in the art would have had the knowledge to modify a device that contains interrogation capabilities and add the extra functionality of having the elements separate for having added flexibility of scanning items (see Marsh FIG[S.] 1 and 2). The examiner further notes that the idea of the combination is focused on the element of having a device that is separate and has ability to interrogate asset identification devices (e.g., RFID tags). The examiner notes that one of ordinary skill in the art would have had the knowledge to combine the elements of Maltseff into Marsh to create a separate interrogation device instead of the use of an antenna and still be able to yield a predictable result. Further the examiner has provided motivation for such a combination: in order [to] allow for tracking information via a wireless memory device and storing the information at a central computer system (Maltseff, 0006).

Accordingly, Appellants' arguments are not persuasive.

Appellants assert that one of ordinary skill would not combine Marsh and Maltseff in the manner suggested by the Examiner because it would add unnecessary components, would serve no purpose, and would add unnecessary expense and complexity (App. Br. 9). However, the Examiner has set forth several purposes in the rationale to combine, namely, to add

flexibility by making the system less bulky, and to take advantage of the wireless nature of an interrogator 28 separate from personal computer 20. (Exam'r's Ans. 17, 20). Moreover, it has generally been held obvious to make an item separable. *See In re Dulberg*, 289 F.2d 522, 523 (CCPA 1961).

Appellants assert that the Examiner's stated rationale for combining is conclusory, that Marsh already teaches a wireless memory device, and that Marsh teaches away from storing information on a central computing system (App. Br. 9-10). The Examiner's rationales are supported by the separated wireless system of Maltseff. While Marsh does teach a wireless memory device, it does not teach such a system where the bulk of the information is stored at personal computer 20 separate from interrogator 28 as disclosed in Maltseff. Finally, Marsh does not "teach away" from storing information on a central computing system. As while Marsh may acknowledge disadvantages in distributed database systems, nevertheless, Marsh's invention itself is a distributed database system (para. [0020]).

For claims 3-5, Appellants repeat the same arguments as set forth in independent claim 1: "[t]here is simply no appropriate reason to have both a separate computing device (or remote client computer, as claimed) and a separate radio frequency identification tag reader, as claimed" (App. Br. 10). However, interrogator 28 of Maltseff reads RFID tags 30 (paras. [0030]-[0031]). Accordingly, for the same reasons as set forth above, we will sustain the rejections of these claims.

Official Notice

We are not persuaded that the Examiner erred in asserting that a combination of Marsh, Maltseff, and Official Notice renders obvious the subject matter of dependent claims 7, 15, 32, and 40 (App. Br. 10-11; Reply Br. 5-6). Appellants assert that the Official Notice does not remedy the deficiencies of the independent claims from which they depend (App. Br. 11). However, the rejections of independent claims 1 and 26 are proper for the reasons set forth above.

Appellants also assert that “it [is] not well-known to couple a legacy system into the Marsh system, in the manner asserted by the Examiner or in the manner recited in claim 7” (App. Br. 11). However, Appellants have not specifically pointed out the supposed errors in the Examiner's taking of Official Notice, “includ[ing] stating why the noticed fact is not considered to be common knowledge or well-known in the art.” *See Manual of Patent Examining Procedure* (MPEP) § 2144.03(C) (8th Ed., Rev. 8, Jul. 2010). *See also* 37 C.F.R. § 1.111(b) (2010). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. *See In re Boon*, 439 F.2d 724, 728 (CCPA 1971). A general allegation, as asserted by Appellants, without specific facts or reasoning as to why legacy systems are not well-known, is insufficient to traverse the Official Notice. *See In re Chevenard*, 139 F.2d 711, 713 (CCPA 1943).

Dependent Claims 2-6, 8-14, 16-25, 27-31, 33-39, and 41-50

We are not persuaded that the Examiner erred in asserting that a combination of Marsh, Maltseff, Bothman, Ahlberg, Fleskes, Cannon, and Radican renders obvious the subject matter of dependent claims 2-6, 8-14, 16-25, 27-31, 33-39, and 41-50 (App. Br. 11-14). Appellants assert that the additional references cited do not remedy the deficiencies of the independent claims from which they depend. However, because the rejections of independent claims 1 and 26 are proper for the reasons set forth above, we will sustain these rejections.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED

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